

172920.1
PATENT

UMICORE 0175-US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: **KLUGE, et al.** Examiner: To be assigned
Serial No.: 10/593,986 Group Art Unit: 3748
Filed: September 25, 2006 Confirmation No. 3398
For: Nitrogen Oxide Storage Material and Nitrogen Oxide Storage Catalyst
Produced Therefrom

Customer No.: **23719**

PATENT TRADEMARK OFFICE

Kalow & Springut LLP
488 Madison Avenue, 19th Floor
New York, New York 10022

September 25, 2008

Mail Stop PCT
Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Attn: Office of PCT Legal Administration

REQUEST FOR RECONSIDERATION
Under 37 CFR 1.182

Sir:

This is a reply in response to the Notice of Decision mailed 27 March 2008. The decision found that the declaration of Juliane Kluge filed March 17, 2008, explaining her name change to Juliane Kluge was acceptable. However, a new declaration from the entire inventive entity including all the inventors was required and a new Application Data Sheet showing the correct inventors should be filed.

Applicants with this response submit a new declaration signed by all the inventors: Juliane Kluge, Ulrich Goebel; Meike Wittrock; Markus Kögel, and Thomas Kreuzer, which nominates the entire inventive entity in accordance with MPEP 201.03. Applicants also submit a corrected Application Data Sheet showing the changes in accordance with MPEP 605.04(c). Applicants respectfully request reconsideration of this decision.

Enclosed with this reply are the following:

Applicant: **KLUGE, et al**
Serial No.: 10/593,986
Filed: September 25, 2006
Request for Reconsideration
Page 2

1. Declaration of Juliane Kluge explaining the discrepancy (re-submitted);
2. Copy of Ms. Kluge's Marriage Certificate (re-submitted);
3. Authorization to charge the deposit account 11-0171, the requisite fee of \$1,640.00 surcharge for Petition for four-month extension of time. The Office is also authorized to charge or credit our deposit account accordingly for any deficiency or overpayment of fees; and
4. Copy of Decision.

If the Examiner has any questions regarding the present application, the Examiner is cordially invited to contact Applicant's attorney at the telephone number provided below.

Respectfully submitted,



William D. Schmidt
Registration No.: 39,492
Attorney for Applicant

Kalow & Springut LLP
(212) 813-1600

163019.2

PATENT

Umicore 0175-US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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New York, New York 10022

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Alexandria, VA 22313-1450

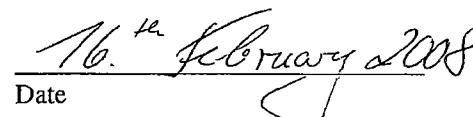
DECLARATION OF JULIANE KLUGE

I, Juliane KLUGE (my maiden name is Juliane THEIS), having an address at Gunta-Stölzl-Straße 6, 80807 München, Germany, hereby declare the following:

1. I am co-inventor of the above-identified application entitled "Nitrogen Oxide Storage Material and Nitrogen Oxide Storage Catalyst Produced Therefrom."
2. My maiden name is Juliane Theis. At the time of filing PCT/EP/2005/003080 on March 23, 2005, I was using my maiden name.
3. I was married on 19th May 2006, which was after the filing date of PCT/EP/2005/003080.

Applicant: Kluge et al.
Serial No.: 10/593986
Filed: 9/25/2006
Declaration of Juliane Kluge – Page 2

4. After I was married, I changed my name and now use my married name, Juliane Kluge.
5. I enclose my marriage certificate.
6. In the oath and declaration filed with the U.S. Patent and Trademark Office on August 28, 2007 regarding the above-identified application, I signed my married name, Juliane Kluge instead of my maiden name Juliane Theis. This was done in error without deceptive intent.
7. All statements made herein of my own knowledge are true, and all statements made on information and beliefs are believed to be true. All statements are made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.


Juliane KLUGE

Date

Heiratsurkunde

F

(Standesamt München -/-

Dr.-Ing. Jörg Olaf Kluge, -/-

Nr. 11110/2006)

geboren am 23. März 1974 -/-

in Dresden -/-

(Standesamt Dresden Nord, jetzt Dresden -/-

München, -/-

Nr. 153/1974)

wohhaft in München, -/-

und Dr.rer.nat. Juliane Ines Theis, -/-

geboren am 01. Dezember 1969 -/-

in Mexiko-Stadt, Mexiko -/-

(Standesamt Mexiko-Stadt, Bd. 34 Nr. 284 -/-

München, -/-

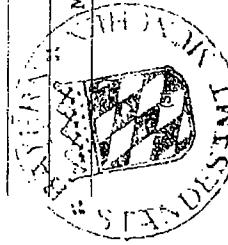
Nr.)

wohhaft in München, -/-

haben am 19. Mai 2006 -/-

Vor dem Standesbeamten des
Standesamts München -/-

die Ehe geschlossen.
-/-



München, den 19. Mai 2006

Der Standesbeamte

Lay

(Weißgerber)

12/409

Verlag für Standesamtswesen GmbH, Frankfurt am Main · Berlin 1939

Replacement Application Data Sheet for 10/593,986 filed September 25, 2006**Application Data Sheet****Application Information**

Application Type:: 371
Subject Matter:: Utility
Title Line One:: NITROGEN OXIDE STORAGE MATERIAL
Title Line Two:: AND NITROGEN OXIDE STORAGE
Title Line Three:: CATALYST PRODUCED THEREFROM
Attorney Docket Number:: UMICORE 0175
Request for Early Publication?:: No
Request for Non-Publication?:: No
Suggested Drawing Figure:: 1
Total Drawing Sheets:: 3 Sheets
Small Entity?:: No

Applicant Information

Applicant Authority type:: Inventor
Primary Citizenship Country:: DE
Status:: Full Capacity
Given Name:: Juliane
Middle Name::
Family Name:: **THEIS KLUGE**
City of Residence:: **Karlstein München**
Country of Residence:: DE
Street of mailing address Line 1:: Kardinal-Döpfner-Strasse 11 Gunta-Stolzl-Straße 6
City of mailing address:: **Karlstein München**
Postal or Zip Code of mailing address:: **63791 80807**
Country of mailing address:: DE

Applicant Authority type:: Inventor
Primary Citizenship Country:: DE
Status:: Full Capacity
Given Name:: Ulrich
Middle Name::
Family Name:: **GOEBEL**
City of Residence:: Hattersheim
Country of Residence:: DE
Street of mailing address Line 1:: Rathausstrasse 14
City of mailing address:: Hattersheim
Postal or Zip Code of mailing address:: 65795
Country of mailing address:: DE

Applicant Authority type:: Inventor
Primary Citizenship Country:: DE
Status:: Full Capacity
Given Name:: Meike
Middle Name::
Family Name:: **WITTRICK**
City of Residence:: Biebergemünd
Country of Residence:: DE
Street of mailing address Line 1:: Südring 3
City of mailing address:: Biebergemünd
Postal or Zip Code of mailing address:: 63599
Country of mailing address:: DE

Applicant Authority type:: Inventor
Primary Citizenship Country:: DE
Status:: Full Capacity
Given Name:: Markus
Middle Name::
Family Name:: **KÖGEL**
City of Residence:: Karlstein Speyer
Country of Residence:: DE
Street of mailing address Line 1:: Azaleenweg 1 Wormser Landstr. 4
City of mailing address:: Karlstein Speyer
Postal or Zip Code of mailing address:: 63791 67346
Country of mailing address:: DE

Applicant Authority type:: Inventor
Primary Citizenship Country:: DE
Status:: Full Capacity
Given Name:: Thomas
Middle Name::
Family Name:: **KREUZER**
City of Residence:: Karben
Country of Residence:: DE
Street of mailing address Line 1:: Philippe-Reis-Str. 13
City of mailing address:: Karben
Postal or Zip Code of mailing address:: 61184
Country of mailing address:: DE

Correspondence Information

Correspondence Customer Number:: 23719

Representative Information

| | |
|----------------------------------|-------|
| Representative Customer Number:: | 23719 |
|----------------------------------|-------|

Foreign Priority Information

| Country:: | Application number:: | Filing Date:: | Priority Claimed:: |
|-----------|----------------------|---------------|--------------------|
| DE | 10 2004 015 116.4 | 27 March 2004 | YES |

Domestic Priority Information

| Application:: | Continuity Type:: | Parent Application:: | Parent Filing Date:: |
|------------------|-------------------|----------------------|----------------------|
| This Application | National Stage of | PCT/EP2005/003080 | 23 March 2005 |

Assignee Information

Assignee name:: UMICORE AG & CO. KG

Street of mailing address Line 1:: Rodenbacher Chaussee 4

Postal or Zip Code of mailing address:: 63457 Hanau-Wolfgang

Country of mailing address:: Germany

DECLARATION AND POWER OF ATTORNEY

As a below-named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter, which is claimed and for which a patent is sought on the invention entitled:

***NITROGEN OXIDE STORAGE MATERIAL AND NITROGEN
OXIDE STORAGE CATALYST PRODUCED THEREFROM***

the specification of which

_____ is attached hereto

X was filed as U.S. Application Serial No.: 10/593,986

on September 25, 2006,

and was amended on _____ (if applicable)

and/or

X was filed as PCT International Application No. PCT/EP/2005/003080
on 23 March 2005

and was amended on _____ (if applicable),

(the undersigned hereby authorizes its attorney to amend this document to insert the filing date and application serial number when they become known.)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment(s) referred to above.

I acknowledge the duty to disclose information of which I am aware which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) or Section 365(b) of any foreign application(s) for patent or inventor's certificate, or Section 365(a) of any PCT International application(s) which designated at least one country other than the United States of America, identified below and have also identified below any foreign application(s) for

DECLARATION AND POWER OF ATTORNEY
DOCKET UMICORE 0175-US
Page 2 of 4

patent or inventor's certificate, or any PCT International application(s), having a filing date before that of the application(s) on which priority is claimed:

| | | | | Priority Claimed |
|-------------------|-----------------------------|---|------------|-------------------------|
| <u>Number</u> | <u>Country (or PCT)</u> | <u>Filing Date (day/month/year)</u> | <u>Yes</u> | <u>No</u> |
| 10 2004 015 116.4 | DE | 27/March/2004 | YES | |
| | | | | |

I hereby claim the benefit under Title 35, United States Code, Section 119(e) of any United States provisional application(s) listed below:

| <u>Provisional Application No.</u> | <u>Filing Date (day/month/year)</u> |
|------------------------------------|---|
| | |
| | |

I hereby claim the benefit under Title 35, United States Code, Section 120 of any United States application(s), or Section 365(c) of any PCT International application(s) designating the United States of America, that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose information that is material to patentability, as defined in 37 CFR Section 1.56, that became available between the filing date of the prior application and the national or PCT International filing date of this application:

| <u>U.S. or PCT Application No.</u> | <u>Filing Date (day/month/year)</u> | <u>Status (patented, pending or abandoned)</u> |
|------------------------------------|---|--|
| | | |

And I hereby appoint the attorneys of Kalow & Springut LLP associated with Customer Number:

23719

my attorneys, each with full power of substitution and revocation, to prosecute this application, to make alterations and amendments therein, to receive the patent, to transact all business in the Patent and Trademark Office connected therewith and to file any International Applications that are based thereon under the provisions of the Patent Cooperation Treaty.

Please address all communications, and direct all telephone calls, regarding this application to the mailing address associated with Customer Number:

DECLARATION AND POWER OF ATTORNEY
DOCKET UMICORE 0175-US
Page 3 of 4

23719

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor, if any: Julianne KLUGE

Citizenship: DE

Residence Address: Gunta-Stolzl-Straße 6

80807 München

DE

Post Office Address: Same As Above

Date of signature Aug 29, 2008

Inventor's signature 

Full name of second inventor, if any: Ulrich GOEBEL

DE

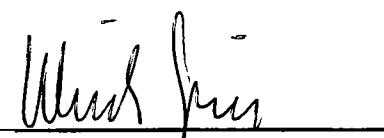
Rathausstrasse 14

65795 Hattersheim

DE

Post Office Address: Same As Above

Date of signature Sept 03, 2008

Inventor's signature 

Full name of third inventor, if any: Meike WITTROCK

DE

Südring 3

63599 Biebergemünd

DE

Post Office Address: Same As Above

Date of signature May 14, 2008

Inventor's signature 

DECLARATION AND POWER OF ATTORNEY
DOCKET UMICORE 0175-US
Page 4 of 4

Full name of fourth inventor, if any:

Markus KÖGEL

Citizenship:

DE

Residence Address:

Wormser Landstr. 4

67346 Speyer

DE

Post Office Address:

Same As Above

Date of signature Sept. 13, 2008

Inventor's signature Markus Kögel

Full name of fifth inventor, if any:

Thomas KREUZER

Citizenship:

DE

Residence Address:

Philipp-Reis-Strasse 13

61184 Karben

DE

Same As Above

Post Office Address:

Date of signature Aug 28, 2008

Inventor's signature Thomas Kreuzer

27 MAR 2008

United States Patent and Trademark Office



Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KALOW & SPRINGUT LLP
488 MADISON AVENUE
19TH FLOOR
NEW YORK NY 10022

In re Application of
Kluge et al.
Application No.: 10/593,986
PCT No.: PCT/EP05/03080
Int. Filing Date: 23 March 2005
Priority Date: 27 March 2004
Attorney Docket No.: UMICORE 0175-US
For: Nitrogen Oxide Storage Material And Nitrogen
Oxide Storage Catalyst Produced Therefrom

DECISION

This is in response to the petition under 37 CFR 1.182 filed on 19 March 2008.

DISCUSSION

In a Decision mailed on 17 September 2007, the declaration filed on 28 August 2007 was not accepted, without prejudice, because

it nominates "Juliane KLUGE" in place of "THEIS, Juliane" who was named in the published international application. In that this is clearly more than a mere typographic error or phonetic misspelling of applicant's name, a proper petition under 37 CFR 1.182 (including the requisite \$400.00 petition fee) is required to resolve the discrepancy in the nominated inventive entity. Such a petition should include, if appropriate, a statement by the inventor and any other individual(s) having first-hand knowledge of the specific circumstances concerning how and when the error was made and discovered, and must also state (if appropriate) that the error was inadvertent and made without deceptive intent. See MPEP § 605.04(b) and MPEP § 201.03(b). Alternatively, petitioner may wish to seek relief under 37 CFR 1.497(d) in the event that the inventive entity is sought to be changed.

It is noted that the declaration document filed on 28 August 2007 is defective for the further reason that it includes un-initialed alterations to the "Residence Address" information pertaining to Markus KOGEL.

In response, petitioner has provided a "Declaration of Juliane Kluge" in which Ms. Kluge explains her name change due to marriage. In view of her explanation, it would be appropriate to accept her name as Kluge on an acceptable declaration of inventorship.

Counsel's attention is respectfully drawn to MPEP 605.04(c), which indicates in part that "Applicants are also strongly encouraged to submit an application data sheet (37 CFR 1.76) showing the new name... If an application data sheet is not submitted, the petition may still be granted, but the patent may not reflect the correct spelling of the inventor's name."

The instant petition is accompanied by a new declaration of inventorship. Review of that declaration reveals that it names only inventors Kluge and Kogel, rather than the entire inventive entity. Attention is drawn to MPEP 201.03, which explains in part that "An oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity." The declaration filed on 19 March 2008 is defective in view of this policy, because it fails to nominate the entire inventive entity. In order for the petition to be granted, an acceptable declaration document is required.

DECISION

The petition under 37 CFR 1.182 is **DISMISSED**, without prejudice.

The \$400.00 petition fee is being charged to Deposit Account no. 11-0171, as authorized by the petition.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely reply will result in **ABANDONMENT** of this application with respect to the national stage in the United States.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration

/George Dombroske/
George Dombroske
PCT Legal Examiner
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